

Application No.: 09/680465

Case No.: 48317US028

REMARKS

Claims 67-80 have been added to this application. Thus, claims 33, 35-58, 60-64, and 66-80 are now pending in this application. Claim 33 has been amended to improve its wording.

Claims 33, 35-57, 59-63, 65, and 66 have been noted to conflict with a number of claims in applicants' copending patent applications. The Examiner has not, however, identified the particular conflict. To the extent, however, that the Examiner can establish that applicants are claiming the same invention or an invention that would have been obvious in view of the claims present in any of those copending applications, applicants will either cancel those claims or file a terminal disclaimer to overcome any double patenting rejection that may exist in this case when it is otherwise in condition for allowance.

Claims 33, 35-46, 48-57, and 59 have been rejected under 35 USC § 103(a) as being unpatentable over UK Patent 2,072,516 to Simpson. Applicants respectfully submit that this rejection cannot be sustained.

Applicants' invention pertains to a filtering face mask 10 that comprises a mask body 12 that is adapted to fit over the nose and mouth of a wearer. The filtering face mask 10 also has an exhalation valve 14 that is attached to the mask body 10. The exhalation valve comprises a valve seat 26 and a single flexible flap 24. The valve seat 26 includes a seal surface 31 and an orifice 32. The flexible flap 24 has a stationary or fixed portion 28 and only one free portion. The stationary portion 28 remains at rest during an exhalation, and the free portion is lifted away from the seal surface 31 during an exhalation. The free portion is located below the stationary portion when the filtering face mask is worn on a person. A valve of this type of construction is commonly referred to as a flapper valve, as opposed to the commonly used button-style valves (see, for example, Figure 3 of Simpson), which have the whole peripheral edge of the flap free to be lifted from the valve seat. In applicants' flapper valve, the flexible flap would normally assume a flat configuration when no forces are applied to it, but the flap has a curved profile when viewed from the side in its secured position on the valve seat and is pressed towards the seal surface 31 in an abutting relationship with it when a fluid is not passing through the orifice.

The Simpson disclosure would not have rendered applicants' invention obvious to a person of ordinary skill for the following reasons.

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Firstly, Simpson does not teach or suggest a flap that is normally flat but is curved in its secured position on the exhalation valve when a fluid is not passing through the orifice. Simpson's valve 13 of Figure 2 has a slight curvature imparted to it, but this view is probably taken as a "snapshot" when a fluid is passing through the orifice. Otherwise, the flap would be disposed in a planar or flat configuration. If, however, Simpson's flap is not curved, that is, it takes on the